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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/428,035	10/27/1999	R MICHAEL MCGRADY	D-1123	4121

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EXAMINER

KAPADIA, MILAN S

ART UNIT	PAPER NUMBER
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2166

DATE MAILED: 03/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/428,035

Applicant(s)

MCGRADY ET AL.

Examiner

Milan S Kapadia

Art Unit

2166

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other: ____

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DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed 27 October 1999.

Claims 1-27 are pending.

Claim Objections

2. Claim 22 is objected to because of the following informalities: (d) should apparently be (g) in line 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 and 11-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Gombrich et al. (4,857,716).

(A) As per claim 1, Gombrich discloses a patient identification system comprising the steps of:

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- (a) storing patient data in memory devices in operative connection to a programmed general purpose computer (Gombrich; col. 2, lines 5-8, col. 8, lines 10-15, and fig. 1);
 - (b) printing on a sheet of bar code labels, patient specific bar code identifiers and the patient's name (Gombrich; col. 12, lines 66-67, col. 13, lines 1-2, and fig. 4);
(The examiner interprets this as a form of report generation)
 - (c) scanning patient specific bar code identifiers from a patient chart (Gombrich; col. 13, lines 32-37);
 - (d) entering and recording a drug prescription as being approved and ready for dispensing (Gombrich; col. 14, lines 22-25); and (The examiner interprets Gombrich's "being approved" to be a form of "taking.")
 - (e) recording the administration of items to patients (Gombrich; col. 16, lines 3-4).
(The examiner interprets Gombrich's "administration" to be a form of "having been given.")
- (B) As per claim 2, Gombrich discloses:
- (a) a means for storing a prescription prescribing drug treatment for the patient (Gombrich; col. 13, lines 32-39);
 - (b) generating bar code labels for drugs in prescription with a printer (Gombrich; col. 14, lines 7-11); and (The examiner interprets this as a form of report generation)

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(d) scanning drug identifier bar codes with a bar code reader (Gombrich; col. 14, lines 22-25).

(C) As per claims 3 and 5 Gombrich discloses:

(e) a means for scanning drug bar codes during administration (Gombrich; col. 15, lines 58-62). (The examiner interprets the nurse as being adjacent to the bed of the patient).

(D) As per claims 4 and 6, Gombrich discloses:

(e) an embodiment of the bar code reading device might include a programmed microprocessor and its associated memory and real time clock mounted in a hand held housing wherein a key pad is provided for entry of data and a LCD display will be provided for displaying information (Gombrich; col. 11, lines 4-44 and figures 10-12).

(E) As per claims 7 and 8, Gombrich discloses:

(e) a means for scanning the patient identifier bar code on the patient's identification bracelet (Gombrich; figure 3 and col. 15, lines 12-16).

(F) As per claims 11 and 12, Gombrich discloses:

(a) a means for storing a prescription prescribing drug treatment for the patient (Gombrich; col. 13, lines 32-39);

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(b) generating bar code labels for drugs in prescription with a printer (Gombrich; col. 14, lines 7-11); and (The examiner interprets this as a form of report generation)

(e) scanning drug bar codes during administration with a bar code reader (Gombrich; col. 15, lines 58-62).

(G) As per claim 13, Gombrich discloses an alternate embodiment of the invention consisting of a portable handheld terminal used in conjunction with a wall mounted base station. The base station includes a means for communicating with the portable handheld terminal and the computer system (Gombrich; col. 23, lines 51-68 and figures 30-34).

(H) As per claim 14, Gombrich discloses a patient/drug schedule being generated upon drugs being approved and ready for dispensing and prior to administration (Gombrich; col. 14, lines .51-61). (The examiner interprets this as a form of report generation)

(I) As per claim 15, Gombrich discloses a system for the control of controlled drugs such as narcotics comprising the steps of:

(a) a means for reporting and controlling accessibility to narcotics (Gombrich; col. 17, lines 4-5); (The examiner interprets this as storing data representative of a plurality of authorized users since only authorized users can obtain the narcotics)

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(b) a means for scanning a nurse's badge to identify her to the system

(Gombrich; col. 17, lines 8-9); and

(c) a means for checking out drugs from a locked drawer or drug cart and placing them into the nurse's inventory, where it will remain until she administers the drug to the patient (Gombrich; col. 17, lines 11-14). (The examiner interprets this as dispensing medical item to user only if authorized and a form of report generation indicative that authorized user has taken drug.)

(J) As per claim 16, Gombrich reference discloses a patient identification system comprising the steps of:

(a) storing patient data in memory devices in operative connection to a programmed general purpose computer (Gombrich; col. 2, lines 5-8);

(b) a means for storing a prescription prescribing drug treatment for the patient (Gombrich; col. 13, lines 32-39);

(c) scanning the patient's identification bar code on the patient's prescription with a bar code reader (Gombrich; col. 13, lines 57-61);

(d) scanning the drug identifier bar code on the drug package with a bar code reader (Gombrich; col. 14, lines 22-24);

(e) a means for entering and recording a drug prescription as being approved and ready for dispensing (Gombrich; col. 14, lines 22-25); (The examiner interprets Gombrich's "being approved" to be a form of "taken for use.")

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(f) a means for the administering the prescribed drug (Gombrich; col. 15, lines 9-67); and

(g) a means for recording the administration of items to patients (Gombrich; col. 16, lines 3-4). (The examiner interprets Gombrich's "administration" to be a form of "has been used.")

(K) As per claim 17, Gombrich discloses:

(c) scanning patient's identification bar code identifiers on the patient's prescription with a bar code reader (Gombrich; col. 13, lines 57-61). (The examiner interprets the prescription as a form of report generation)

(L) As per claim 18, Gombrich discloses:

(d) scanning the drug identifier bar code on the drug package with a bar code reader (Gombrich; col. 14, lines 22-24).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 9-10 and 19-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gombrich et al. (4,857,716).

(A) As per claims 9 and 10, Gombrich discloses the placing of patient identification bar codes on the patient's identification bracelet (col. 8, lines 66-68). Gombrich fails to expressly disclose the placement of patient identifier labels on the patient bed or on a bedside chart. It is respectfully submitted, that one having ordinary skill in the art at the time of the invention would have found it obvious to have placed patient identifier labels on the patient's bed or bed side chart with the motivation of providing such data in a highly visible location in case of patient bracelet misplacement or damage.

(B) As per claim 19, Gombrich discloses the placing of the drug, upon approval and ready for dispensing and prior to administration, in the patient's drug cart (col. 14, lines 51-62). Gombrich fails to expressly disclose the dispensing of one medical item from a medical item dispenser. It is respectfully submitted, that one having ordinary skill in the art at the time of the invention would have found it obvious to dispense the one medical item from a medical dispenser after scanning the drug identifier and patient bar codes with the motivation of providing drug inventory control.

(C) As per claim 20, Gombrich discloses a means for entering and recording of a drug prescription as being approved and ready for dispensing after medical item placed in patient's drug cart (Gombrich; col. 14, lines 22-25).

(D) As per claim 21, Gombrich discloses a system for the control of controlled drugs such as narcotics comprising the steps of:

(a) a means for reporting and controlling accessibility to narcotics (Gombrich; col. 17, lines 4-5); (The examiner interprets this as storing data representative of a plurality of authorized users since only authorized users can obtain the narcotics)

(b) a means for scanning a nurse's badge to identify her to the system (Gombrich; col. 17, lines 8-9);

(c) a means for checking out drugs from a locked drawer or drug cart (Gombrich; col. 17, line 11); and (The examiner interprets this as dispensing item only if user corresponds to one authorized user)

(d) a means for placing narcotic drug into the nurse's inventory (Gombrich; col. 17, lines 12-14). (The examiner interprets this as storing data representative that the medical item has been taken by the one authorized user)

(E) As per claims 22, 23, and 25, Gombrich discloses:

(g) an embodiment of the bar code reading device might include a programmed microprocessor and its associated memory and real time clock mounted in a hand held housing (Gombrich; col. 11, lines 4-44 and figures 10-12). (The

examiner interprets the nurse using this device as being adjacent to bedside of patient)

(F) As per claim 24, Gombrich discloses:

(g) a bar code reader for scanning the patient identifier bar code on the patient's identification bracelet (see figure 3 and Gombrich; col. 15, lines 12-16).

(G) As per claim 26, Gombrich discloses terminals that may be placed in remote locations as required (Gombrich; col. 8, lines 26-30). (The examiner interprets this as placing terminal near bedside area of patient)

(H) As per claim 27, Gombrich discloses the transmission of data between a portable bar code reading device and remote terminals (Gombrich; col. 9, lines 57-65 and figure 6).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches a system in which the management of the administration of care for patients is automated (5,781,442); and a system for monitoring and dispensing medical items which are dispensed for administration (6,112,502).

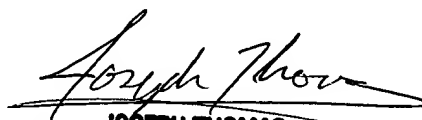
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milan S Kapadia whose telephone number is 703-305-3887. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-1396 for regular communications and 703-308-1396 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

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February 26, 2002


JOSEPH THOMAS
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